

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

PAUL R. DILGER, DERRICK J. HAMMETTER,
ANTOINETTE M. VINKAVICH, PATRICIA A.
SKRZYPCHAK, AND DON TIEGS,

Plaintiffs,

Case No.: 2:17-CV-1753

v.

IOD INCORPORATED, ABC INSURANCE CO.,
VERISMA SYSTEMS, INC., DEF INSURANCE CO.,
CIOX HEALTH, LLC, and GHI INSURANCE CO.,

Defendants.

DECLARATION OF DANIEL A. MANNA

I, Daniel A. Manna, declare as follows:

1. I am an attorney with the law firm Gass Weber Mullins LLC and counsel of record for Ciox Health, LLC in this matter.
2. Attached hereto as Exhibit A is a true and correct copy of the Complaint (without exhibits) from *Moya v. HealthPort Technologies, LLC, et al.*, Milwaukee Co. Case No. 13-CV-2642, filed March 20, 2013.
3. Attached hereto as Exhibit B is a true and correct copy of the Complaint from *Meyer v. Ciox Health, et al.*, Dane Co. Case No. 17-CV-1786, filed July 24, 2017.
4. Attached hereto as Exhibit C is a true and correct copy of an order signed by the court in the *Moya* case on November 30, 2017.
5. Attached hereto as Exhibit D is a true and correct copy of the *Moya* court's Order on Motion to Clarify, dated January 17, 2018.

6. Under normal circumstances, when a complaint is pending and the case is removed to federal court, Ciox's counsel would work with their staff to immediately calendar the post-removal deadline to respond to state court pleadings from Federal Rule of Civil Procedure 81(c)(2).

7. In the days immediately following removal of this case, Ciox's counsel were busy completing briefing a dispositive motion in the *Meyer* case.

8. Focus on the *Meyer* briefing, along with consistent engagement with the *Dilger* plaintiffs' counsel in *Moya* and a flurry of filings in *Moya* in the last two business days of the year, led to the calendaring error remaining undiscovered in 2017. Ciox's counsel spent the first two weeks of the new year preparing two additional briefs in *Moya* (responding to the year-end filings by the *Moya* plaintiffs), and were not alerted to the calendaring error until the evening of January 16, 2018.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 17, 2018.

s/Daniel A. Manna
Daniel A. Manna